

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NICK'S GARAGE, INC.,

Plaintiff,

v.

JOHN KIGGINS,

Defendant.

**STIPULATED ORDER
AND JUDGMENT**

Civil Action No.:
5:07-CV-00317 (NAM/DEP)

Nick's Garage, Inc. ("Plaintiff") brought this action against John Kiggins ("Defendant") in connection with his use of the marks "NICK ORSO" and "NICK ORSO'S" on his website and in the domain name nickorso.net and in connection with alleged defamatory statements made by Defendant on his www.nickorso.net website. The parties now have reached an agreement to settle this litigation and have agreed to the disposition of this action by entry of an order and judgment in the form set forth below:

Terms of Stipulated Order and Judgment

1. The parties acknowledge that a judicable controversy exists between them over which this Court has subject matter jurisdiction, and acknowledge that this Court has *in personam* jurisdiction over Defendant, and agree that venue is properly situated in this District.

2. Defendant, and all persons in active concert or participation with him who receive actual notice of this judgment by personal service or otherwise, agrees to be permanently restrained and enjoined from:

(a) using, attempting to use or causing to be used in any manner "NICK ORSO", "NICK ORSO'S", "NICKORSO", "NICKORSO'S", "NICKORSOS", nickorso.net and any other similar word, name or term as his marks, domain name, in buried code or metatags on his home page or web pages, in connection with the retrieval of data or information, on other goods or services, or in connection with the advertising, promotion, sale or offers for sale of any goods, services or websites;

(b) listing, printing, posting, indexing, linking, storing, or otherwise associating, either directly or through other entities, "NICK ORSO", "NICK ORSO'S", "NICKORSO", "NICKORSO'S", "NICKORSOS", nickorso.net and any other similar word, name or term in any form including, but not limited to, visible, invisible, encrypted, searchable, or non-searchable forms, within websites, web pages, home pages, Internet sites, Internet pages, data bases, programs, or any other storage means, either temporary or permanent, on the Internet or any other medium;

(c) selling or offering for sale the website www.nickorso.net or the domain name nickorso.net or any other similar websites or domain names;

(d) otherwise engaging in any conduct which would cause consumers or the public generally to erroneously believe or be confused about whether Defendant is or will be in any way affiliated, connected, associated, sponsored and/or approved by Plaintiff;

(e) otherwise diluting the quality of the "NICK ORSO'S" mark or causing injury to Plaintiff's reputation in any manner including the making of disparaging and/or defamatory statements about Plaintiff;

(f) operating the website heretofore found at www.nickorso.net; and

(g) otherwise diminishing Plaintiff's goodwill.

3. Defendant shall immediately transfer all rights to the nickorso.net domain name to Nick's Garage, Inc. and immediately cease using and claiming the right to use the domain name nickorso.net on the Internet.

4. Defendant shall direct, in writing, all publishers of directories or lists, including Internet search engines, in which Defendants' use of NICK ORSO, "NICK ORSO'S", "NICKORSO", "NICKORSO'S", "NICKORSOS", nickorso.net or any similar word, name or term appears, to delete such references to Defendant's use of said words, names or terms from their public databases, search engine directories, directory assistance and from all future directories in which such references to Defendant's use of said names and marks are to appear.


5. Defendant agrees that he waives any right to appeal from this order and judgment and any right to challenge it in any way.

6. Defendant acknowledges that he has the right to counsel prior to signing this Stipulated Order and Judgment and that he has voluntarily waived such right. Defendant acknowledges that he has read, understands, and is knowingly and voluntarily entering into this Stipulated Order and Judgment.

7. The parties agree that this Court retains jurisdiction of this matter for purposes of enforcement of this order and judgment.

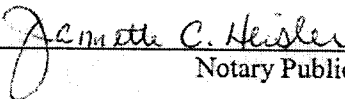
Signatures of Parties

JOHN KIGGINS, defendant, consents to the entry of this order and judgment:

By: 
John Kiggins
Date: April 16, 2007


STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

On this 16th day of April, 2007, before me, a Notary Public in and for said County and State, appeared JOHN KIGGINS, to me known to be the person named herein and who executed the foregoing Stipulated Order and Judgment, and he acknowledged to me that the execution of this instrument was his free act and deed.


Notary Public

NICK'S GARAGE, Inc., plaintiff, consents to the entry of this order and judgment.

Jannette C. Heisler
Notary Public, State of New York
Qualified in Onondaga Co. No. 01CO4676395
My Commission Expires
01/31/2011

By: 
Name: Michael Orso
Title: President
Date: April 16, 2007

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

On this 16th day of April, 2007, before me, a Notary Public in and for said County and State, appeared Michael Orso, President of Nick's Garage, Inc., duly authorized agent of the Corporation described in, and who executed the foregoing Stipulated Order and Judgment on behalf of Nick's Garage, Inc., its current or former directors, officers, agents and employees.

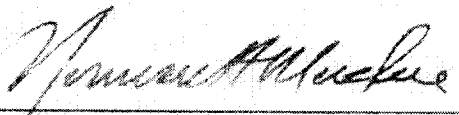

Notary Public

COURT ORDER

The Court has reviewed the foregoing Stipulated Order and Judgment and finds that the Stipulated Order and Judgment is proper in form and a suitable and proper disposition of this action. Therefore,

IT IS ORDERED, that the Clerk of the Court enter the Stipulated Order and Judgment in this matter pursuant to Rule 58 of the Federal Rules of Civil Procedure.

Dated: 4-17, 2007



Hon/Norman A. Mordue
United States District Court Judge